

# Idaho Statutes

## 6/20/2006

TITLE 46  
MILITIA AND MILITARY AFFAIRS  
CHAPTER 10  
STATE DISASTER PREPAREDNESS ACT

**46-1001. SHORT TITLE.** This act shall be cited as the "Idaho Disaster Preparedness Act of 1975, amended by the Idaho Homeland Security Act of 2004."

**46-1002. DEFINITIONS.** As used in this act:

(1) "Bureau" means the bureau of homeland security, military division of the office of the governor.

(2) "Adjutant general" means the administrative head of the military division of the office of the governor.

(3) "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, windstorm, wave action, volcanic activity, explosion, riot, or hostile military or paramilitary action and including acts of terrorism.

(4) "Emergency" means occurrence or imminent threat of a disaster or condition threatening life or property which requires state emergency assistance to supplement local efforts to save lives and protect property or to avert or lessen the threat of a disaster.

(5) "Political subdivision" means any county, city, district, or other unit of state or local government.

(6) "Militia" means all members of the Idaho army and air national guard in the service of the state.

(7) "Search and rescue" means the employment, coordination, and utilization of available resources and personnel in locating, relieving distress and preserving life of, and removing survivors from the site of a disaster, emergency or hazard to a place of safety in case of lost, stranded, entrapped, or injured persons.

(8) "Disaster emergency account" means the account created under this act for the purpose of paying obligations and expenses incurred by the state of Idaho during a declared state of disaster emergency.

(9) "Bureau of hazardous materials" means the former bureau of hazardous materials which is now a part of the bureau of homeland security in the military division of the office of the governor.

**46-1003. POLICY AND PURPOSES.** It is the policy of this state to plan and prepare for disasters and emergencies resulting from natural or man-made causes, enemy attack, terrorism, sabotage or other hostile action, and to implement this policy, it is found necessary:

(1) To create a bureau of homeland security, to authorize the creation of local organizations for disaster preparedness in the political subdivisions of the state, and to authorize the state and political subdivisions to execute agreements and to cooperate with the federal government and the governments of other states.

(2) To prevent and reduce damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action.

(3) To prepare assistance for prompt and efficient search, rescue, care, and treatment of persons injured, victimized or threatened by disaster.

(4) To provide for rapid and orderly restoration and rehabilitation of persons and property affected by disasters.

## APPENDIX C

(5) To prescribe the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to and recovery from disasters.

(6) To authorize and encourage cooperation in disaster prevention, preparedness, response and recovery.

(7) To provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by all state agencies, political subdivisions, and interstate, federal-state and Canadian activities in which the state and its political subdivisions may participate.

(8) To provide a disaster management system embodying all aspects of predisaster preparedness and postdisaster response.

(9) To provide for the payment of obligations and expenses incurred by the state of Idaho through the bureau of homeland security during a declared state of disaster emergency.

**46-1004. BUREAU OF HOMELAND SECURITY CREATED.** Within the military division of the office of governor, a bureau of homeland security is established.

**46-1005. CHIEF OF BUREAU -- APPOINTMENT -- COMPENSATION.** The bureau may be headed by a chief appointed by the adjutant general with the concurrence of the governor or the governor may appoint the adjutant general to serve as chief. The chief shall hold office at the pleasure of the governor and his compensation shall be fixed by the governor. If the adjutant general is chief, he shall receive no additional compensation for serving as chief.

**46-1005A. DISASTER EMERGENCY ACCOUNT.** (1) There is hereby created and established in the state treasury a separate account to be known as the disaster emergency account which account shall be administered by the governor or his designee. The account shall only be used to pay obligations and expenses incurred by the state of Idaho during a declared state of disaster emergency.

(2) In order to pay said obligations and expenses in coping with a declared state of disaster emergency the governor shall expend state money as follows:

(a) The governor shall use any moneys available in the disaster emergency account.

(b) In the event the disaster emergency account is inadequate to satisfy said obligations and expenses, the governor is empowered to direct, by executive order, the state controller to transfer moneys from the general account, created pursuant to section 67-1205, Idaho Code, to the disaster emergency account, provided that in the governor's judgment sufficient general account moneys will be available to support the full general account appropriations for the current fiscal year.

(c) In addition to any purpose for which they have previously been created, all funds excluding constitutionally created funds, or funds limited in their application by the constitution of the state of Idaho, are hereby expressly declared to be appropriated for the purpose of effectuating the purposes of this act. If the moneys made available in paragraphs (a) and (b) above are inadequate to meet the above mentioned obligations and expenses, the governor is empowered to direct the state controller, by executive order, to transfer to the disaster emergency account moneys from any eligible account in order to pay said obligations and expenses; provided, that in the governor's judgment, the moneys transferred are not required to support the current year's appropriation of the affected accounts.

(d) In the event that restitution is made to the state from nonstate sources to reimburse the state for costs incurred in responding to a state of disaster emergency, the governor may use funds from the restitution to reimburse accounts from which funds were drawn to pay for the state's response to the emergency.

(3) In addition to any other purpose for which they might have been appropriated, all moneys made available by this act to be used in the event of a disaster emergency are hereby perpetually appropriated for the purpose set

## APPENDIX C

forth in this section according to the limitations established by this section and the constitution of the state of Idaho. In no event may the revenues made available by section 46-1005A (2) (b) and (c), Idaho Code, for any and all emergency purposes exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for that fiscal year.

**46-1006. POWERS AND DUTIES OF CHIEF AND BUREAU.** (1) In all matters of disaster services, the adjutant general shall represent the governor and shall on behalf of the governor, coordinate the activities of all of the state agencies in disaster services. The bureau shall have a coordinating officer and other professional, technical, secretarial and clerical employees necessary for the performance of its functions.

(2) The bureau shall prepare, maintain and update a state disaster plan based on the principle of self help at each level of government. The plan may provide for:

- (a) Prevention and minimization of injury and damage caused by disaster;
- (b) Prompt and effective response to disaster;
- (c) Emergency relief;
- (d) Identification of areas particularly vulnerable to disasters;
- (e) Assistance to local officials in designing local emergency action plans;
- (f) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from disaster;
- (g) Preparation and distribution to the appropriate state and local officials of catalogs of federal, state and private assistance programs;
- (h) Assistance to local officials in designing plans for search, rescue, and recovery of persons lost, entrapped, victimized, or threatened by disaster;
- (i) Organization of manpower and chains of command;
- (j) Coordination of federal, state, and local disaster activities;
- (k) Coordination of the state disaster plan with the disaster plans of the federal government.

(3) The bureau shall participate in the development and revision of local and intergovernmental disaster plans. To this end it may employ or otherwise secure the services of professional and technical personnel to provide expert assistance to political subdivisions, their disaster agencies, and intergovernmental planning and disaster agencies. This personnel shall consult with subdivisions and agencies and shall make field examinations of the areas, circumstances, and conditions to which particular local and intergovernmental disaster plans are intended to apply.

(4) In preparing and maintaining the state disaster plan, the bureau shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local and intergovernmental agencies, the bureau shall encourage them also to seek advice from these sources.

(5) The state disaster plan or any part thereof may be incorporated in rules of the bureau promulgated subject to chapter 52, title 67, Idaho Code.

(6) The bureau shall:

- (a) Promulgate standards and criteria for local and intergovernmental disaster plans;
- (b) Periodically review local and intergovernmental disaster plans;
- (c) Assist political subdivisions, their disaster agencies, and intergovernmental disaster agencies to establish and operate training programs and programs of public information;
- (d) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;
- (e) Prepare executive orders and proclamations for issuance by the governor, as necessary or appropriate in coping with disasters;

## APPENDIX C

(f) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster prevention, preparation, response, and recovery;

(g) Maintain a register of search and rescue organizations, units, teams, or individuals operating within the state;

(h) Assist search and rescue units to accomplish standards for equipment, training and proficiency;

(i) Coordinate search and rescue of lost aircraft and airmen pursuant to section 21-114, Idaho Code, with aerial search operations coordinated by the Idaho transportation department, division of aeronautics;

(j) In addition to disaster prevention measures as included in the state, local, and intergovernmental disaster plans, the bureau shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. The governor from time to time may make recommendations to the legislature, local governments and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters; and

(k) Not limit the powers and duties of the department of transportation, division of aeronautics, as provided by sections 21-114 and 21-118, Idaho Code.

### **46-1007. LIMITATIONS.** Nothing in this act shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) Interfere with dissemination of news or comment on public affairs;

(3) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, local emergency medical service (EMS) agencies licensed by the state department of health and welfare EMS bureau, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state, local, and intergovernmental disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or

(4) Limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in him under the constitution or statutes of this state independent of or in conjunction with any provisions of this act.

**46-1008. THE GOVERNOR AND DISASTER EMERGENCIES.** (1) Under this act, the governor may issue executive orders, proclamations and amend or rescind them. Executive orders and proclamations have the force and effect of law.

(2) A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that the occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and when either or both of these events occur, the governor shall terminate the state of disaster emergency by executive order or proclamation; provided, however, that no state of disaster emergency may continue for longer than thirty (30) days unless the governor finds that it should be continued for another thirty (30) days or any part thereof. The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the area subject to the proclamation, and the conditions which are causing the disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, be promptly filed with the bureau of homeland security, the office

## APPENDIX C

of the secretary of state and the office of the recorder of each county where the state of disaster emergency applies.

(3) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local and intergovernmental disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this act or any other provision of law relating to disaster emergencies.

(4) During the continuance of any state of disaster emergency the governor is commander-in-chief of the militia and may assume command of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.

(5) In addition to any other powers conferred upon the governor by law, he may:

(a) Suspend the provisions of any regulations prescribing the procedures for conduct of public business that would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) Utilize all resources of the state, including, but not limited to, those sums in the disaster emergency account as he shall deem necessary to pay obligations and expenses incurred during a declared state of disaster emergency;

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) Subject to any applicable requirements for compensation under section 46-1012, Idaho Code, commandeer or utilize any private property, real or personal, if he finds this necessary to cope with the disaster emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(h) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives, and combustibles;

(i) Make provision for the availability and use of temporary emergency housing.

(6) Whenever an emergency or a disaster has been declared to exist in Idaho by the president under the provisions of the disaster relief act of 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:

(a) Enter into agreements with the federal government for the sharing of disaster recovery expenses involving public facilities;

(b) Require as a condition of state assistance that a local taxing district be responsible for paying forty percent (40%) of the nonfederal share of costs incurred by the local taxing district which have been determined to be eligible for reimbursement by the federal government, provided that the total local share of eligible costs for a taxing district shall not exceed ten percent (10%) of the taxing district's tax charges authorized by section 63-802, Idaho Code;

(c) Obligate the state to pay the balance of the nonfederal share of eligible costs within local taxing entities qualifying for federal assistance; and

(d) Enter into agreements with the federal government for the sharing of disaster assistance expenses to include individual and family grant programs.

## APPENDIX C

(7) During the continuance of any state of disaster emergency, neither the governor nor any agency of any governmental entity or political subdivision of the state shall impose restrictions on the lawful possession, transfer, sale, transport, storage, display or use of firearms or ammunition.

### **46-1009. LOCAL AND INTERGOVERNMENTAL DISASTER AGENCIES AND SERVICES.**

(1) Each county within this state shall be within the jurisdiction of and served by the bureau and by a county or intergovernmental agency responsible for disaster preparedness and coordination of response.

(2) Each county shall maintain a disaster agency or participate in an intergovernmental disaster agency which, except as otherwise provided under this act, has jurisdiction over and serves the entire county, or shall have a liaison officer appointed by the county commissioners designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response and recovery.

(3) The chairman of the board of county commissioners of each county in the state shall notify the bureau of the manner in which the county is providing or securing disaster planning and emergency services. The chairman shall identify the person who heads the agency or acts in the capacity of liaison from which the service is obtained, and furnish additional information relating thereto as the bureau requires.

(4) Each county and/or intergovernmental agency shall prepare and keep current a local or intergovernmental disaster emergency plan for its area.

(5) The county or intergovernmental disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

(6) Except as provided in subsections (7), (8), (9) and (10) of this section, the sheriff of each county shall:

(a) be the official responsible for command of all search and rescue operations within his jurisdiction;

(b) prepare and keep current a plan to command the search and rescue capability and resources available within the county.

(7) Pursuant to chapter 1, title 21, Idaho Code, subsection (6) of this section shall not apply to all aerial activity related to the search for lost aircraft and airmen. Search and rescue coordination shall be under the direction and supervision of the chief of the bureau of homeland security within the military division, with aerial search operations coordinated by the Idaho transportation department, division of aeronautics.

(8) Nothing in subsection (6) of this section shall apply to search and rescue operations within the incorporated limits of any city.

(9) Nothing in subsection (6) of this section shall apply to the rescue of entrapped or injured persons where their location is known to be within a fire district, where the fire district performs such service.

(10) Nothing contained in subsection (6) of this section shall apply to the removal of entrapped or injured persons where the person's location is known to a local EMS agency licensed by the state of Idaho.

**46-1010. INTERGOVERNMENTAL ARRANGEMENTS.** (1) The governor may enter into interstate emergency or disaster service compacts with any state if he finds that joint action with the state is desirable in meeting common intergovernmental problems of emergency or disaster planning, prevention, response, and recovery.

(2) Nothing in subsection (1) hereof shall be construed to limit previous or future entry into the interstate civil defense and disaster compact of this state with other states.

(3) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster

## APPENDIX C

proclaimed by the governor, and this state shall give due recognition to the license, certificate, or other permit.

(4) All interstate mutual aid compacts and other interstate agreements dealing with disaster and emergency services shall be reviewed and updated at intervals not to exceed four (4) years.

(5) When considered of mutual benefit, the governor may, subject to limitations of law, enter into intergovernmental arrangements with neighboring provinces of Canada for the purpose of exchanging disaster and emergency services.

(6) Pursuant to an interstate agreement, personnel working for the state, its political subdivisions, municipal or public corporations, and other public agencies, may work outside the state to aid in disaster and emergency relief work; or equipment belonging to the state, its political subdivisions, municipal or public corporations, and other public agencies may be used outside the state to aid in disaster and emergency relief work. When state or local highway equipment or personnel are used in disaster relief work outside the state, arrangements shall be made, as necessary, to reimburse the state, its political subdivisions, municipal or public corporations, and other public agencies, for such work or equipment to comply with section 17, article 7 of the Idaho constitution, which provides that gasoline taxes and motor vehicle funds shall be used exclusively for the public highways of the state.

**46-1011. LOCAL DISASTER EMERGENCIES.** (1) A local disaster emergency may be declared only by a mayor or chairman of the county commissioners within their respective political subdivisions. It shall not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the governing board of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the local county recorder.

(2) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or intergovernmental disaster emergency plans and to authorize the furnishing of aid and assistance thereunder.

(3) No intergovernmental agency or official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an intergovernmental disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions.

**46-1012. COMPENSATION.** (1) Each person within this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state, other political subdivisions, and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. This act neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his services or property without compensation.

(2) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law or ordinance.

(3) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the governor or his representative.

(4) Any person claiming compensation for the use, damage, loss, or destruction of property under this act shall file a claim therefor with the bureau in the form and manner the bureau provides.

## APPENDIX C

(5) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed upon between the claimant and the bureau, the amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to the condemnation laws of this state.

**46-1013. COMMUNICATIONS.** The bureau shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The bureau shall consider the desirability of supplementing these communication resources or of integrating them into a comprehensive state or state-federal telecommunications or other communication system or network. The bureau shall make recommendations to the governor as appropriate.

**46-1014. MUTUAL AID.** (1) Political subdivisions not participating in the intergovernmental arrangements pursuant to this act nevertheless shall be encouraged and assisted by the bureau to conclude suitable arrangement for furnishing mutual aid in coping with disasters. The arrangements shall include provisions of aid by persons and units in public employ.

(2) In passing upon local disaster plans, the bureau shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.

**46-1015. WEATHER MODIFICATION.** The bureau shall keep continuously appraised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the bureau determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. Thereupon, no permits may be issued until the bureau informs the officer or agency that the danger has passed.

**46-1016. LIABILITY FOR PROPERTY DAMAGE, BODILY INJURY OR DEATH.** No person, partnership, corporation, association, the state of Idaho or any political subdivision thereof or other entity who owns, leases, controls, occupies or maintains any building or premises which shall have been designated by proper authority for civil defense as a shelter from destructive operations or attacks by enemies of the United States shall be liable to any person for property damages, bodily injury or death resulting from or caused by the condition of said building or premises or as a result of any act or omission or in any way arising from the designation of such premises or buildings as a shelter when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for acts of wilful negligence by the owner or occupant of such building or premises or other person responsible for the maintenance thereof, or by his servants, agents or employees.

**46-1017. IMMUNITY.** Neither the state, nor the bureau, nor any political subdivision thereof nor other agencies, nor, except in cases of willful misconduct, the agents, employees or representatives of any of them engaged in any civil defense, disaster or emergency and the planning or preparation for the same, or disaster or emergency relief activities, acting under proper authority, nor, except in cases of willful misconduct or gross negligence, any person, firm, corporation or entity under contract with them to provide equipment or work to be used in civil defense, disaster or emergency planning, preparation or relief, while complying with or attempting to comply with this act or any rule or regulation promulgated pursuant to the provisions of the act, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise



## APPENDIX C

be entitled under this act or under the worker's compensation law or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of congress.

**46-1018. INTERSTATE MUTUAL AID COMPACT.** The state of Idaho hereby enacts into law and enters into the interstate mutual aid compact with those states who agree and enact the interstate mutual aid compact in accordance with the terms of the compact, which compact is substantially as follows:

### INTERSTATE MUTUAL AID COMPACT

#### Article I

The purpose of this compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster that overextends the ability of local and state governments to reduce, counteract, or remove the danger. Assistance may include but is not limited to rescue, fire, police, medical, communication, and transportation services and facilities to cope with problems which require use of special equipment, trained personnel, or personnel in large numbers not locally available.

#### Article II

Article I, Section 10, of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of 50 U.S.C. 2281(g) and 2283 and the executive branch, by issuance of Executive Order No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster, and civil defense mutual aid agreements or pacts.

#### Article III

It is agreed by participating states that the following conditions will guide implementation of the compact:

(1) Participating states through their designated officials are authorized to request and receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency and other resources are not immediately available.

(2) Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it must be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, and personnel or other resources needed. Each request must be signed by an authorized official.

(3) Personnel and equipment of the aiding state made available to the requesting state shall, whenever possible, remain under the control and direction of the aiding state. The activities of personnel and equipment of the aiding state must be coordinated by the requesting state.

(4) An aiding state has the right to withdraw some or all of its personnel and equipment whenever the personnel and equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting state as soon as possible.

#### Article IV

(1) The requesting state shall reimburse the aiding state as soon as possible after the receipt by the requesting state of an itemized voucher requesting reimbursement of costs.

(2) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

(3) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for the cost of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives if such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement and such payments are made in the

## APPENDIX C

same manner and on the same terms as if the injury or death were sustained within the aiding state.

### Article V

(1) All privileges and immunities from liability, exemptions from law, ordinances, and rules and all pension, disability relief, workers' compensation, and other benefits that apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this compact.

(2) All privileges and immunities from liability, exemptions from law, ordinances, and rules and workers' compensation and other benefits that apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits apply to the same extent while performing their functions extraterritorially under the provisions of this compact. Volunteers may include but are not limited to physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

(3) The signatory states, their political subdivisions, municipal or public corporations, and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other states with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

(4) Nothing of this arrangement may be construed as repealing or impairing any existing interstate mutual aid agreements.

(5) Upon enactment of this compact by two (2) or more states, and annually by each January 1 thereafter, the participating states will exchange with each other the names of officials designated to request and provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it is permissible and desirable for the states to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

(6) This compact becomes effective and is binding upon the states so acting when it has been enacted into law by any two (2) states. Thereafter, this compact becomes effective and binding as to any other state upon similar action by such state.

(7) This compact remains binding upon a party state until it enacts a law repealing the compact and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal may not take effect until the 30th consecutive day after the notice has been sent. Such withdrawal does not relieve the withdrawing state from its obligations assumed under this compact prior to the effective date of withdrawal.

**46-1018A. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.** The legislature of the state of Idaho hereby authorizes the governor of the state of Idaho to enter into a compact on behalf of the state of Idaho with any other state legally joining therein, in the form substantially as follows:

### EMERGENCY MANAGEMENT ASSISTANCE COMPACT

#### ARTICLE I

##### PURPOSES AND AUTHORITIES

(1) This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

(2) The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or

## APPENDIX C

disaster that is duly declared by the governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

(3) This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the national guard mutual assistance compact or by mutual agreement between states.

### ARTICLE II GENERAL IMPLEMENTATION

(1) Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(2) The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

(3) On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

### ARTICLE III PARTY STATE RESPONSIBILITIES

(1) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(a) Review individual state hazards analysis and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency or enemy attack.

(b) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(c) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(d) Assist in warning communities adjacent to or crossing the state boundaries.

(e) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

(f) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

## APPENDIX C

(g) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(2) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

(a) A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(b) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.

(c) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(3) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

### ARTICLE IV LIMITATIONS

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, and privileges as are afforded forces of the states in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency service authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training of mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

### ARTICLE V LICENSES AND PERMITS

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

## APPENDIX C

### ARTICLE VI LIABILITY

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence or recklessness.

### ARTICLE VII SUPPLEMENTARY AGREEMENTS

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

### ARTICLE VIII COMPENSATION

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

### ARTICLE IX REIMBURSEMENT

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provisions of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

### ARTICLE X EVACUATION

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans

## APPENDIX C

shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

### ARTICLE XI IMPLEMENTATION

(1) This compact shall become operative immediately upon its enactment into law by any two (2) states; thereafter this compact shall become effective as to any other state upon its enactment by such state.

(2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(3) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

### ARTICLE XII VALIDITY

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

### ARTICLE XIII ADDITIONAL PROVISIONS

Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under section 1385 of title 18, United States Code.

**46-1020. PURPOSE AND FINDINGS.** (1) The legislature of the state of Idaho finds:

(a) That recurring floods in Idaho threaten human life, health and property and that the public interest requires that the floodplains of Idaho be managed and regulated in order to minimize flood hazards to life, health and property.

(b) That it is the policy of this state to reduce flood damage and the number of people and structures at risk in flood hazard areas through proper floodplain management, including such measures as floodplain zoning ordinances which require structures to be built at a flood protection elevation and/or with floodproofing.

(c) That local units of government have the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish this proper floodplain management. Furthermore, they are best able to adopt and implement comprehensive floodplain management programs that include nonregulatory techniques to accomplish the purposes of this act in cooperation with federal, state and local agencies.

## APPENDIX C

- (2) The purpose of this act is:
  - (a) To protect human life, health and property;
  - (b) To preserve floodplains for the purpose of carrying and storing flood waters;
  - (c) To reduce the public cost of providing emergency services, flood control structures and rebuilding public works damaged by floods;
  - (d) To protect the tax base and jobs in Idaho;
  - (e) To reduce the threat of increased damage to existing development;
  - (f) To encourage the orderly development and wise use of floodplains;
  - (g) To minimize interruptions to business;
  - (h) To prevent increased flooding and erosion caused by improper development.

### **46-1021. DEFINITIONS.** As used in this act:

- (1) "Development" means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees.
- (2) "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of river, ocean, streams or lakes, or the unusual and rapid accumulation or runoff of surface waters from any source.
- (3) "Flood fringe" is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.
- (4) "Floodplain" is the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.
- (5) "Floodplain management" is the analysis and integration of the entire range of measures that can be used to prevent, reduce or mitigate flood damage in a given location, and that can protect and preserve the natural, environmental, historical, and cultural values of the floodplain.
- (6) "Floodproofing" means the modifications of structures, their sites, building contents and water and sanitary facilities, to keep water out or reduce the effects of water entry.
- (7) "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one hundred (100) year flood) plus any increased flood elevation due to floodway encroachment, plus any required freeboard.
- (8) "Floodway" is the channel of the river or stream and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.
- (9) "Freeboard" represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard shall compensate for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.
- (10) "Local government," in the context of this chapter, means any county or city having planning and zoning authority to regulate land use within its jurisdiction.
- (11) "Mitigation" means any action taken which will reduce the impact, damage or cost of the next flood that occurs.
- (12) "Person" means any individual, group of individuals, corporation, partnership, association, political subdivision, public or private agency or entity.

## APPENDIX C

(13) "Regulatory flood" is a flood determined to be representative of large floods known to have occurred in Idaho and which may be expected to occur on a particular stream because of like physical characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any given year there is a one percent (1%) chance that a regulatory flood may occur or be exceeded.

### **46-1022. LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING ORDINANCES.**

Subject to the availability of adequate mapping and data to properly identify the floodplains, if any, within their jurisdiction, each local government is encouraged to adopt a floodplain map and floodplain management ordinance which identifies these floodplains and which requires, at a minimum, that any development in a floodplain must be constructed at a flood protection elevation and/or have adequate floodproofing. The local government may regulate all mapped and unmapped floodplains within their jurisdiction. Nothing in this act shall prohibit a local government from adopting more restrictive standards than those contained in this chapter.

**46-1023. ENFORCEMENT AND SANCTIONS.** (1) Development constructed or maintained in violation of any local floodplain management ordinance that conforms to the provisions of this chapter is hereby declared to be a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action of the state, any local unit of government of the state or any citizen thereof.

(2) If, after the effective date of this chapter, a local government allows any development in a floodplain below the flood protection elevation without adequate floodproofing, that development shall not, in the event of a disaster emergency involving flooding in that floodplain, be eligible to receive any matching funds from the state for any federal disaster assistance program which may be available as a result of said flooding in that floodplain. The owner of the development will be required to rely on flood insurance to insure their property against the risk of loss incurred by their development in the floodplain in contravention of the intent of this chapter.

**46-1024. SEVERABILITY.** If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable.

**46-1025. FEDERAL FUNDS TO POLITICAL SUBDIVISIONS.** (1) Annually, the chief of the Idaho bureau of homeland security shall prepare a written summary of all grants received from the federal emergency management agency to be distributed to the forty-four (44) county commission chairmen. The summary shall list those federal funds that are eligible for direct assistance to local disaster agencies in accordance with section 46-1009(2), Idaho Code, and those funds that are limited to use by the state and not eligible for direct assistance to local disaster agencies.

(2) Not less than thirty-four percent (34%) of the eligible direct assistance funds shall be subgranted by the Idaho bureau of homeland security to the local disaster agencies. Funds shall be distributed to the local disaster agencies subject to the provisions and rules of the Idaho bureau of homeland security, the federal emergency management agency through the Robert T. Stafford Act, title 44 of the code of federal regulations, and pertinent circulars published by the United States office of management and budget.

(3) Direct financial assistance to the local disaster agencies is not an entitlement. Subgrants are awarded through the Idaho bureau of homeland security for the purpose of assisting counties to achieve goals and objectives outlined in an approved county grant proposal.